

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1735 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BHAGALPUR

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Ravindra Kumar, Son of Ganauri Paswan, R/o Durganagar, Bargaon, P.S. -
Bargaon, District - Rampur (Chattisgarh)

.... Petitioner

Versus

1. The State of Bihar Through Collector, Bhagalpur.
2. Collector/District Magistrate, Bhagalpur.
3. Superintendent of Police, Bhagalpur.
4. Station House Officer (S.H.O.) Mojahidpur (Babarganj), P.S. Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Davendra Kumar Pandey, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC 4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsel for the parties.

The truck of the petitioner bearing registration no. CG 04JC-9545 was seized in connection with Mojahidpur (Babarganj) P.S. Case No. 110 of 2016 on the ground that the same was carrying rice of Food Corporation of India in unauthorized manner.

The petitioner moved the court below for release of the said truck on the ground that no purpose would be served by continued detention of the vehicle pre-trial. The prayer was refused by the learned Magistrate vide order contained in Annexure-2 which was challenged before the learned Sessions Judge in Cr. Revision No. 70 of 2017 and again prayer was refused on 14.06.2017 vide Annexure-3 on the ground that confiscation proceeding is pending in respect of the said truck.

Submission of the learned counsel for the petitioner is that pre-trial confiscation of property is bad in law and the same is under challenge



in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court. Moreover, the petitioner is ready to give surety with undertaking not to dispose of the said truck and put the same under encumbrance as well as to produce as and when required by the court.

Considering the substance in the submission of the learned counsel for the petitioner, that no purpose is going to be served by continued detention of the vehicle in police lockup till conclusion of the trial as well as considering the pendnecy of the aforesaid issue before a Larger Bench of this Court, let the truck be released, in favour of the petitioner, on execution of surety bond of Rs.20,00,000/- (rupees twenty lakhs) along with two sureties of the like amount each, with condition that the petitioner shall file undertaking that he would not dispose of the said truck without permission of the court below nor shall put the same under encumbrance.

The impugned orders are not sustainable in law in view of the judgment of the Hon’ble Apex Court in **Sunder Bhai Ambalal Desai Vs. State of Gujarat** report in **2002(10) SCC 283**.

Hence, the same stands quashed and this application is allowed.

(Birendra Kumar, J)

Kundan/-

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